

REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

Disposition of Claims

Claims 1-11, 13-20, 22, 23, 27-38, 51-59, 61, 65, 76-87, 110-114, 116, 119, 127, 131, 135, and 141-146 are pending in this application. Claims 145-146 are new. Claims 1, 51, and 141 are independent. The remaining claims depend, directly or indirectly, from claims 1, 51, and 141.

Claim Amendments

Independent claims 1, 51, and 141 are amended for purposes of clarification. No new matter is added by way of these amendments. Support for these amendments may be found, for example, in the original claims and on pages 4-5 of the Specification.

Rejection(s) under 35 U.S.C. § 103

Claims 1-8, 15, 16, 28-30, 35, 38, 51-56, 76-78, 83, 85, 86, 111, 112, 114, 131, 135, 141-142

Claims 1-8, 15, 16, 28-30, 35, 38, 51-56, 76-78, 83, 85, 86, 111, 112, 114, 131, 135, and 141-142 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 5,594,509 ("Florin") in view of US Patent No. 5,594,509 ("Eyer") and US Patent No. 5,872,588 ("Aras"). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

The claimed invention recites that the step of determining whether complete access rights are received and the step of prohibiting only one of audio or visual access are performed while the mosaic is displayed. More specifically, the aforementioned steps are performed while the selected program is displayed to the viewer in the mosaic format. The Examiner relies on Florin as teaching a mosaic and determining whether access rights are permitted to PPV programs. *See* Action mailed November 21, 2008, p. 3. However, Florin, teaches that the PIN code check to access the PPV program is performed on a separate screen that is not within the mosaic. Therefore, Florin fails to teach or suggest the aforementioned limitation of the independent claims. Further, Eyer and Aras fail to supply that which Florin lacks, as evident by the fact that the Examiner relies on Eyer solely for the purpose of teaching prohibiting audio or visual access for a predetermined length of time, and Aras solely for the purpose of teaching prohibiting audio or visual access to an encrypted program. *See* Action mailed November 21, 2008, p. 4-5.

Even assuming *arguendo* that Florin teaches the aforementioned limitation required by the amended claims, Applicant asserts that there is no motivation to combine the system of Eyer with that of Aras, and that those skilled in the art would not look to Aras in achieving the claimed invention. Aras teaches a system for parental control of broadcasted content, thereby altogether restricting particular programs that children can view. The Examiner asserts that Aras teaches “one encrypted program comprising both encrypted audio and encrypted video...and prohibiting only audio or only video for the at least one encrypted program.” The Examiner justifies the combination of Eyer with Aras by stating that such a modification to the system of Eyer would have been obvious “in order to allow parents to control what their children are watching.” *See* Action mailed November 21, 2008, p. 5.

The KSR court noted that “obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some “apparent reason to combine the known elements in the fashion claimed.”” *Ex parte Whalen*, 89 U.S.P.Q.2d 1084 (a precedential Board of Patent Appeals decision). In the same way, “obviousness cannot be proven merely by showing that a known system could have been modified by routine experimentation...it must be shown that those of ordinary skill in the art would have had some apparent reason” to modify the system of Florin to allow for parental control of program content. *Id.*

Furthermore, an internal USPTO memo from Margaret Focarino to technology art directors dated May 3, 2006, stated that when making an obviousness rejection “it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed.”

Applicant asserts that the Examiner’s reason for combining Eyer with Aras is inconsistent with the taught combination. If one skilled in the art wanted to enable control of what children are watching, then account must be taken of the content. In Aras, any offensive material is blocked **immediately**, whereas Eyer lets everything through for a predetermined time. On the one hand, a combination of Eyer and Aras in which everything is shown during a certain time after which offensive material is blocked would not really control what children are watching. On the other hand, combining Eyer and Aras to immediately block audio and/or video when it appears does not use the “preview time.” Thus, any combination of Eyer with Aras leads to an inconsistency and does not achieve the claimed invention.

The above rationale is further supported by several Board of Patent Appeals Decisions, *e.g.*, *ex parte Crawford*, Appeal 20062429, May 30, 2007, the Board held “we find no suggestion to combine the teachings and suggestions of [the prior art], as advanced by the Examiner, except from using Appellant’s invention as template through a hindsight reconstruction of Appellant’s claims. *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) states that “rejections on obviousness grounds cannot be sustained by mere conclusory statement; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”

In view of the above, Applicants assert that those skilled in the art would not modify the system of Eyer with that of Aras, nor would one skilled in the art look to Aras in combination with Florin and Eyer to achieve the claimed invention. Accordingly, Applicants assert that the combination of Florin, Eyer, and Aras is improper, and cannot be used to obviate the claimed invention. Accordingly, independent claims 1, 51, and 141 are patentable over Florin, Eyer, and Aras, whether considered separately or in combination. Pending dependent claims are patentable for at least the same reasons. Withdrawal of this rejection is respectfully requested.

Claims 9, 10, 57, and 58

Claims 9, 10, 57, and 58 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, and further in view of U.S. Patent No. 5,874,936 (“Berstis”). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, Florin Eyer, and Aras fail to teach the limitations of independent claims 1 and 51. Further, Berstis fails to supply that which Florin, Eyer, and Aras lack, as evidenced by the fact that the Examiner relies on Berstis solely for the purpose of teaching a “automatically re-

positioning the cursor in the event that the cursor is placed over the window that is not active,” where the cursor is repositioned either immediately or after a predetermined length of time (*see* Action mailed November 21, 2008, page 14).

In view of the above, it is clear that independent claims 1 and 51 are patentable over Florin, Eyer, Aras, and Berstis, whether considered separately or in combination. Further, dependent claims 9, 10, 57, and 58 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 11, 13, 59, and 61

Claims 11, 13, 59, and 61 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, and Aras, and further in view of U.S. Publication No. 2003/0101452 (“Hanaya”). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, Florin, Eyer, and Aras fail to teach the limitations of independent claims 1 and 51. Further, Hanaya fails to supply that which Florin, Eyer, and Aras lack, as evidenced by the fact that Hanaya is relied upon solely for the purpose of teaching changing attributes of a cursor depending on the characteristic of a program/channel displayed in a window over which the cursor is positioned (*see* Action mailed November 21, 2008, page 15).

In view of the above, it is clear that independent claims 1 and 51 are patentable over Florin, Eyer, Aras, and Hanaya, whether considered separately or in combination. Further, dependent

claims 11, 13, 59, 61, and 142 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 14 and 110

Claims 14 and 110 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, Hanaya and further in view of US. Patent No. 5,809,204 ("Young"). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, Florin, Eyer, Aras, and Hanaya fail to teach the limitations of independent claims 1 and 51. Further, Young fails to supply that which Florin, Eyer, Aras, and Hanaya lack, as evidenced by the fact that Young is relied upon solely for the purpose of teaching receiving data for assigning the characteristic from a remote control handset (*see* Action mailed November 21, 2008, page 16). In view of the above, it is clear that independent claims 1 and 51 are patentable over Florin, Eyer, Aras, Hanaya, and Young, whether considered separately or in combination. Dependent claims 14 and 110 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 17, 18, 65, 119, and 127

Claims 17, 18, 65, 119, and 127 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, and further in view of US Patent No. 5,903,314 ("Nijima"). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, Florin, Eyer, and Aras fail to teach the limitations of independent claims 1 and 51. Further, Nijjima fails to supply that which Florin, Eyer, and Aras lack, as evidenced by the fact that the Examiner relies on Nijjima solely for the purpose of teaching a “receiving data by communicating with a communications center to obtain information regarding the program displayed in the mosaic window” and “the relative positions of windows of the mosaic formation are controlled in response to received positioning data for controlling relative positions of windows within the mosaic formation” (*see* Action mailed November 21, 2008, page 17). In view of the above, it is clear that independent claims 1 and 51 are patentable over Florin, Eyer, Aras, and Nijjima, whether considered separately or in combination. Further, dependent claims 17, 18, 65, 119, and 127 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 19

Claim 19 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, Nijjima, and further in view of WO 96/37996 (“Townsend”). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, Florin, Eyer, Aras, and Nijjima fail to teach or suggest the limitations of independent claims 1 and 51. Further, Townsend fails to supply that which Florin, Eyer, Aras, and Nijjima lack, as evidenced by the fact that Townsend is relied upon solely for the purpose of teaching dialing up the communications center to supply a request for information about a displayed program and receiving access rights from a remote control handset associated with the decoder (*see* Action mailed November 21, 2008, page 20). In view of the above, it is clear that amended

independent claims 1 and 51 are patentable over Florin, Eyer, Aras, Nijima, and Townsend, whether considered separately or in combination. Dependent claim 19 is patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 20, 22, and 113

Claims 20, 22, and 113 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, and Young. To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, Florin, Eyer, and Aras fail to teach or suggest the limitations of amended independent claims 1 and 51. Further, Young fails to supply that which Florin, Eyer, and Aras lack, as evidenced by the fact that for rejecting claims 20 and 113, Young is used by the Examiner solely for the purpose of teaching a means for generating a display comprising a forthcoming program schedule for the channel displayed in the desired window (*see* Action mailed November 21, 2008, page 20). With respect to claims 22, the Examiner relies on Young solely for the purpose of teaching a forthcoming schedule and the textual display of program schedule information (*see* Action mailed November 21, 2008, pages 20-21).

In view of the above, it is clear that amended independent claims 1 and 51 are patentable over Florin, Eyer, Aras, and Young, whether considered separately or in combination. Dependent claims 20, 22, and 113 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 23 and 27

Claims 23 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, and Young and further in view of US Patent No. 5,815,145 (“Matthews”). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, none of Florin, Eyer, Aras, and Young teach the limitations of amended independent claims 1 and 51. Further, Matthews fails to supply that which Florin, Eyer, Aras, and Young lack, as evidenced by the fact that the Examiner relies on Matthews solely for the purpose of teaching a forthcoming schedule with pictorial images, and that the pictorial images comprise video footage (*see* Action mailed November 21, 2008, page 22). In view of the above, it is clear that amended independent claims 1 and 51 are patentable over Florin, Eyer, Aras, Young, and Matthews whether considered separately or in combination. Dependent claims 23 and 27 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 31, 33, 36, 56, 79, 84, and 116

Claims 31, 33, 36, 56, 79, 84, and 116 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, and Matthews. To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, none of Florin, Eyer, and Aras teach the limitations of amended independent claims 1 and 51. And again, the Examiner relies on Matthews solely for the purpose of teaching specific details recited in the various rejected dependent claims, such as a picture displayed in the window instead of at least the portion of video, that the picture comprises an image associated

with the program displayed in the mosaic, that the further video information is promotional video information (*see* Action mailed November 21, 2008, pages 22-23).

In view of the above, it is clear that amended independent claims 1 and 51 are patentable over Florin, Eyer, Aras, and Matthews, whether considered separately or in combination. Dependent claims 31, 33, 36, 56, 79, 84, and 116 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 32, 80, and 81

Claims 32, 80, and 81 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, Matthews, and further in view of US Patent No. 5,663,757 ("Morales"). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, none of Florin, Eyer, Aras, and Matthews teach the limitations of amended independent claims 1 and 51. Further, Morales fails to supply that which Florin, Eyer, Aras, and Matthews lack, as evidenced by the fact that the Examiner relies on Morales solely for the purpose of teaching that a picture comprises a logo associated with a channel displayed in the mosaic window (*see* Action mailed November 21, 2008, page 25). Thus, it is clear that amended independent claims 1 and 51 are patentable over Florin, Eyer, Aras, Matthews, and Morales, whether considered separately or in combination. Dependent claims 32, 80, and 81 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 34 and 82

Claims 34 and 82 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, and further in view of US Publication No. 2001/0052135 (“Balak”). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, none of Florin, Eyer, and Aras teach the limitations of amended independent claims 1 and 51. Further, Balak fails to supply that which Florin, Eyer, Aras, lack, as evidenced by the fact that the Examiner relies on Balak solely for the purpose of teaching that advertisements displayed in the mosaic window (*see* Action mailed November 21, 2008, page 26). Thus, it is clear that amended independent claims 1 and 51 are patentable over Florin, Eyer, Aras, and Balak, whether considered separately or in combination. Dependent claims 34 and 82 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 37 and 85

Claims 37 and 85 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, and further in view of US Patent No. 5,978,649 (“Kahn”). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, none of Florin, Eyer, and Aras teaches the limitations of amended independent claims 1 and 51. Further, Kahn fails to supply that which Florin, Eyer, and Aras lack, as evidenced by the fact that the Examiner relies on Kahn solely for the purpose of teaching generating a message due to lack of access rights when a cursor is on a channel (*see* Action mailed

November 21, 2008, page 26). Thus, it is clear that amended independent claims 1 and 51 are patentable over Florin, Eyer, Aras, and Kahn, whether considered separately or in combination. Dependent claims 37 and 85 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 143 and 144

Claims 143 and 144 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Florin, Eyer, Aras, and further in view of US Patent No. 5,036,537 ("Jeffers"). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, none of Florin, Eyer, and Aras teaches the limitations of amended independent claims 1 and 51. Further, Jeffers fails to supply that which Florin, Eyer, and Aras lack, as evidenced by the fact that the Examiner relies on Kahn solely for the purpose of teaching generating a message due to lack of access rights when a cursor is on a channel (*see* Action mailed November 21, 2008, page 27). Thus, it is clear that amended independent claims 1 and 51 are patentable over Florin, Eyer, Aras, and Jeffers, whether considered separately or in combination. Dependent claims 143 and 144 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

New Claims


Claims 145-146 are newly added by way of this reply. Support for the new claims may be found, for example, on pages 4-5 of the Specification and in the original claims. New Claims 145 and 146 are dependent directly upon claim 1, and are patentable over all the cited prior art for at least the same reasons as claim 1. Accordingly, favorable consideration of the new claims is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 11345/028001).

Dated: February 19, 2009

Respectfully submitted,

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